IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7576 OF 2004

Mohammed Yasin Usmani .. Petitioner.
Vs.
Nissar Ahmed Usmani .. Respondent.

Mr.A.A.Joshi i/b Mr.S.S.Jain for the petitioner.
Mr.A.S.Uraizee for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 14TH SEPTEMBER, 2004

P.C.:

. Heard Mr.Joshi, learned counsel for the petitioner and Mr.Uraizee, learned counsel for the respondent.

2. The order dismissing the Chamber Summons taken out by the petitioner-plaintiff seeking amendment is impugned in the instant petition. The Chamber Summons was dismissed on the grounds that the facts/averments which the petitioner desires to incorporate in the plaint by way of amendment are already there in the plaint and the facts which are based on the documents are required to be proved by leading oral evidence. I perused the impugned order, schedule of amendments and the plaint. I am satisfied that the facts/averments sought to be

introduced by way of amendment already exists in the plaint and no prejudice whatsoever would be caused to the petitioner-plaintiff if the amendment is not allowed. Mr.Joshi, learned counsel for the petitioner does not dispute that the facts/averments sought to be introduced exist in the plaint. Considering the overall facts and circumstances of the case, in my opinion, no interference is called for in the impugned order. The writ petition, therefore, fails and is dismissed as such.

(D.B.Bhosale, J.)